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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 ALEXANDER B. BAYOT,

9 *Petitioner,*

10 vs.

11 ISIDRO BACA, *et al.*,

12 *Respondent.*
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3:14-cv-00206-RCJ-WGC

ORDER

15 Alexander B. Bayot, a Nevada prisoner, has submitted an application to proceed *in forma*
16 *pauperis* (ECF #1), as well as a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254 (ECF
17 #1-1).

18 Petitioner's application to proceed *in forma pauperis* (ECF #1) is granted. The habeas
19 petition shall be filed and docketed, and it shall be served upon the respondents.

20 A petition for federal habeas corpus should include all claims for relief of which
21 petitioner is aware. If petitioner fails to include such a claim in his petition, he may be forever barred
22 from seeking federal habeas relief upon that claim. *See* 28 U.S.C. §2254(b) (successive petitions). If
23 petitioner is aware of any claim not included in his petition, he should notify the court of that as soon
24 as possible, perhaps by means of a motion to amend his petition to add the claim.

25 Petitioner has also submitted a motion for the appointment of counsel (ECF #1-2). There
26 is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v.*
27 *Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir.1993). The decision
28 to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir.1986),


1 cert. denied, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), cert. denied, 469
2 U.S. 838 (1984). However, counsel must be appointed if the complexities of the case are such that
3 denial of counsel would amount to a denial of due process, and where the petitioner is a person of such
4 limited education as to be incapable of fairly presenting his claims. *See Chaney*, 801 F.2d at 1196; *see*
5 *also Hawkins v. Bennett*, 423 F.2d 948 (8th Cir.1970). The petition on file in this action appears
6 sufficiently clear in presenting the issues that petitioner wishes to raise. Counsel is not justified at this
7 time. The motion is denied without prejudice.

8 **IT IS THEREFORE ORDERED** that petitioner's application to proceed *in forma*
9 *pauperis* (ECF #1) is **GRANTED**.

10 **IT IS FURTHER ORDERED** that the Clerk shall **FILE** and **ELECTRONICALLY**
11 **SERVE** the petition (ECF #1-1) on the respondents.

12 **IT IS FURTHER ORDERED** that respondents shall have **forty-five (45)** days from
13 entry of this order within which to answer, or otherwise respond to, the petition. In their answer or other
14 response, respondents shall address any claims presented by petitioner in his petition as well as any
15 claims presented by petitioner in any Statement of Additional Claims. Respondents shall raise all
16 potential affirmative defenses in the initial responsive pleading, including lack of exhaustion and
17 procedural default. **Successive motions to dismiss will not be entertained**. If an answer is filed,
18 respondents shall comply with the requirements of Rule 5 of the Rules Governing Proceedings in the
19 United States District Courts under 28 U.S.C. §2254. If an answer is filed, petitioner shall have **forty-**
20 **five (45) days** from the date of service of the answer to file a reply.

21 **IT IS FURTHER ORDERED** that, henceforth, petitioner shall serve upon the Attorney
22 General of the State of Nevada a copy of every pleading, motion, or other document he submits for
23 consideration by the court. Petitioner shall include with the original paper submitted for filing a
24 certificate stating the date that a true and correct copy of the document was mailed to the Attorney
25 General. The court may disregard any paper that does not include a certificate of service. After
26 respondents appear in this action, petitioner shall make such service upon the particular deputy attorney
27 general assigned to the case.


UNITED STATES DISTRICT JUDGE